

SCANNED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANDREW VAIL,  
PLAINTIFF

19 CV 2021

VERIFIED COMPLAINT

-AGAINST-

CIVIL ACTION No.

19-cv-\_\_\_\_\_

ROCHESTER GENERAL HOSPITAL,

DR. VINCENT CHANG, M.D.,

JURY TRIAL

DEMANDED

VCM

DEFENDANTS

PLAINTIFF ANDREW VAIL FOR HIS VERIFIED COMPLAINT STATES AND ALLEGES AS FOLLOWS:

- 1) THIS COURT HAS JURISDICTION PURSUANT TO 28 U.S.C. § 1332, THIS ACTION IS BASED ON DIVERSITY OF CITIZENSHIP.
- 2) THIS COURT HAS SUPPLEMENTAL (PENDENT) JURISDICTION TO HEAR THE STATE TORT CLAIMS PURSUANT TO ARTICLE III TITLE 28 U.S.C. § 1367,

- 3) VENUE PROPERLY LIES IN THE SOUTHERN DISTRICT OF NEW YORK BECAUSE PLAINTIFF RESIDES IN THE SOUTHERN DISTRICT.

PARTIES

- 4) PLAINTIFF ANDREW JAIL IS AND WAS AT ALL TIMES RELEVANT HERETO A CITIZEN OF THE STATE OF NEW YORK AND A UNITED STATES CITIZEN.
- 5) UPON INFORMATION AND BELIEF DEFENDANT ROCHESTER GENERAL HOSPITAL IS A CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF NEW YORK AND DOING BUSINESS WITHIN THE CITY OF ROCHESTER, COUNTY OF MONROE, STATE OF NEW YORK.
- 6) UPON INFORMATION AND BELIEF DEFENDANT DR. VINCENT CHANG, M.D., IS A PHYSICIAN LICENSED TO PRACTICE HIS PROFESSION IN THE STATE OF NEW YORK AND MAINTAINS AN OFFICE FOR THE PRACTICE OF SURGERY IN MONROE COUNTY, DEFENDANT HELD AND HOLDS HIMSELF OUT TO THE PUBLIC

AS A COMPETENT AND SKILLFUL PHYSICIAN AND SURGEON AND CAPABLE OF PROPERLY DIAGNOSING, TREATING AND CARING FOR INJURIES, ILLNESS AND DISEASE AND CAPABLE OF PROPERLY AND SKILLFULLY PERFORMING OPERATIONS ON THE HUMAN BODY AND CAPABLE OF PROPERLY AND SKILLFULLY TREATING AND CARING FOR PERSONS PRIOR TO, DURING AND FOLLOWING SURGERY.

EXHAUSTION OF ADMINISTRATIVE REMEDIES & CONDITIONS PRECEDENT

- 7) ON OR ABOUT DECEMBER 4<sup>TH</sup> <sup>AN</sup>, 2018 A WRITTEN NOTICE OF CLAIM WAS PRESENTED TO DEFENDANTS DR. VINCENT CHANG, M.D. AND ROCHESTER GENERAL HOSPITAL AND THE NOTICE OF CLAIM WAS FORWARDED TO DEFENDANT VCM, THE ADMINISTRATOR FOR ROCHESTER GENERAL HOSPITAL.
- 8) DEFENDANT VCM DENIED THE CLAIM AFTER A CURSORY, BIASED SUMMARY EXAMINATION IN A LETTER DATED DECEMBER 27, 2018.

### PREVIOUS LAWSUITS BY PLAINTIFF

- 9) PLAINTIFF HAS FILED NO OTHER LAWSUIT(S) DEALING WITH THE SAME FACTS INVOLVED IN THE INSTANT ACTION.

### STATEMENT OF FACTS

- 10) PRIOR TO PLAINTIFF MOVING TO MONROE COUNTY, STATE OF NEW YORK IN FEBRUARY OF 2017, PLAINTIFF RESIDED IN LOS ANGELES COUNTY (SANTA MONICA) STATE OF CALIFORNIA AND WAS UNDERGOING TREATMENT FOR PICA.
- 11) ON OR ABOUT APRIL 30<sup>TH</sup>, 2017 PLAINTIFF PRESENTED TO THE EMERGENCY DEPARTMENT AT ROCHESTER GENERAL HOSPITAL BECAUSE PLAINTIFF INGESTED (SWALLOWED) FOREIGN OBJECTS (2 AA BATTERIES).
- 12) PLAINTIFF WAS EXAMINED BY THE EMERGENCY ROOM PHYSICIAN(S) WHO CONSULTED WITH THE GASTROENTEROLOGY (G.I.) DEPARTMENT REGARDING THE RECOMMENDED COURSE OF ACTION.

- 13) THE G.I. PHYSICIAN(S) ASKED PLAINTIFF TO CONSENT TO AN ENDOSCOPY (E.G.D.) PROCEDURE IN WHICH A CAMERA IS PASSED THROUGH THE PATIENTS MOUTH AND DOWN THE ESOPHAGUS INTO THE STOMACH AND SMALL INTESTINE TO SEARCH FOR (AND REMOVE) THE FOREIGN BODY. THIS IS A WIDELY ACCEPTED, STANDARD AND COMMON PLACE PROCEDURE FOR REMOVING SWALLOWED FOREIGN BODIES FROM AN INDIVIDUALS DIGESTIVE TRACT.
- 14) PLAINTIFF WHO WAS ACCOMPANIED BY HIS HUSBAND DISCUSSED THE RISKS AND BENEFITS WITH THE GASTROENTEROLOGIST AND ULTIMATELY AGREED TO THE ENDOSCOPY (E.G.D.) UNDER ANAESTHESIA.
- 15) ON OR ABOUT APRIL 30<sup>TH</sup>, 2017 PLAINTIFF AWOKE FROM THE ANAESTHESIA IN INCREDIBLE PAIN AND WAS SHOCKED AND APPALLED TO DISCOVER THAT DEFENDANT DR. VINCENT CHANG, M.D. HAD PERFORMED UPON PLAINTIFF A MAJOR AND INVASIVE OPERATION; AN EXPLORATORY LAPAROTOMY, GASTROTOMY WITH FOREIGN BODY REMOVAL.

- 16) PLAINTIFF WAS HOSPITALIZED FOR SEVERAL DAYS AND WAS IN EXTREME PAIN AND ENDURED A LENGTHY AND PROTRACTED RECOVERY AS AN INPATIENT AT ROCHESTER GENERAL HOSPITAL.
- 17) ADDING INSULT TO INJURY, PLAINTIFF FURTHER LEARNED THAT DEFENDANT DR. VINCENT CHANG, M.D., A GENERAL SURGEON AFFILIATED WITH DEFENDANT ROCHESTER GENERAL HOSPITAL, WHOM PLAINTIFF HAD NOT MET PRIOR TO THE OPERATION, HAD TAKEN UPON HIMSELF TO PERFORM A MAJOR, RADICAL EXTREME AND INVASIVE OPERATION ON PLAINTIFF WHICH WAS IMPROPER, UNNECESSARY AND NOT INDICATED AS TREATMENT FOR THE CONDITION FROM WHICH PLAINTIFF WAS SUFFERING AND SHOULD NOT HAVE BEEN PERFORMED,
- 18) IN ADDITION TO PERFORMING UNNECESSARY OPERATION ON PLAINTIFF, DEFENDANTS DR. VINCENT CHANG, M.D. AND ROCHESTER GENERAL HOSPITAL PERFORMED SUCH SURGERY SO NEGIGLENTLY, CARELESSLY AND UNSKILLFULLY THAT AS A RESULT OF THE SURGERY (OPERATION), PLAINTIFF SUFFERED SERIOUS AND
- PAGE 6 OF 18

PERMANENT INJURY TO HIS DIGESTIVE SYSTEM AND HIS STOMACH AND ABDOMEN IS SCARRED AND DISFIGURED SERIOUSLY AND PERMANENTLY.

- 19) THE INJURIES AND DAMAGE TO PLAINTIFF ALLEGED WERE CAUSED SOLELY BY THE NEGLIGENCE, CARELESSNESS AND RECKLESSNESS OF THE DEFENDANTS,
- 20) DEFENDANTS WERE NEGLIGENT IN THAT THEY FAILED TO PROPERLY DIAGNOSE AND TREAT PLAINTIFFS DISORDER BY PERFORMING A MAJOR, UNNECESSARY INVASIVE AND RADICAL OPERATION ON PLAINTIFF WHICH WAS NOT INDICATED AND SHOULD NOT HAVE BEEN PERFORMED; IN THAT THE OPERATION WAS PERFORMED IN A NEGLIGENT, RECKLESS AND UNSKILLFUL MANNER; IN THAT DEFENDANTS FAILED TO FOLLOW ACCEPTED MEDICAL PRACTICE IN EXAMINING AND TREATING PLAINTIFF AND THAT THEY FAILED TO USE THEIR BEST JUDGEMENT, AND AS A RESULT OF SUCH FAILURE, TO DIAGNOSE PLAINTIFFS DISORDER PROPERLY AND TREAT PLAINTIFF THEREOF; IN THAT THEY FAILED

TO PROPERLY ADVISE PLAINTIFF OF THE DANGER OF SUCH OPERATION.

- 21) BY REASONS OF THE FOREGOING PLAINTIFF HAS SUFFERED GREAT PAIN AND SERIOUS PERMANENT INJURIES, HAS SUFFERED GREAT MENTAL ANGUISH, HAS BEEN COMPELLED TO SECURE MEDICAL AID IN AN EFFORT TO CURE OR MINIMIZE HIS INJURIES, HAS BEEN AND WILL BE UNABLE TO FOLLOW HIS USUAL OCCUPATION AND WILL REQUIRE FOR AN INDEFINITE PERIOD OF TIME FURTHER MEDICAL AID AND ASSISTANCE.

SECOND CAUSE OF ACTION - FAILURE TO OBTAIN INFORMED CONSENT

- 22) PLAINTIFF REPEATS PARAGRAPHS 1 THROUGH 21,
- 23) PRIOR TO PERFORMANCE OF THE OPERATION ON PLAINTIFF BY DEFENDANTS DR. VINCENT CHANG, M.D AND ROCHESTER GENERAL HOSPITAL PLAINTIFF HAD NOT SPOKEN WITH DR. CHANG OR ANY MEMBER OF



THE SURGICAL STAFF AT ROCHESTER GENERAL HOSPITAL.

- 24) DEFENDANTS CHANG AND RGH FAILED TO DISCLOSE TO PLAINTIFF THE REASONABLY FORSEEABLE RISKS AND PERILS INVOLVED IN SUCH SURGERY (OPERATION) AS A REASONABLE MEDICAL PRACTITIONER UNDER SIMILAR CIRCUMSTANCES WOULD HAVE DISCLOSED, IN A MANNER PERMITTING PLAINTIFF TO MAKE A KNOWLEDGEABLE EVALUATION THEREOF.
- 25) DEFENDANTS OWED PLAINTIFF THE DUTY AND OBLIGATION OF MAKING KNOWN ANY AND ALL RISKS OF SUCH OPERATION AND THEIR FAILURE TO DO SO PRECLUDED PLAINTIFF FROM MAKING A VALID AND INFORMED CONSENT TO SUCH OPERATION.
- 26) PLAINTIFF DID NOT GIVE A VALID INFORMED CONSENT TO THE SURGERY PERFORMED UPON HIM BY DEFENDANT CHANG AT THE FACILITIES OWNED AND OPERATED BY DEFENDANT ROCHESTER GENERAL HOSPITAL.

- 27) PLAINTIFF WOULD NOT HAVE UNDERGONE AND CONSENTED TO THE ENDOSCOPY (E.G.D.) IF HE HAD KNOWN THAT THE OPERATION PERFORMED BY DR. VINCENT CHANG, M.D. WOULD OCCUR WITHOUT PLAINTIFF'S KNOWLEDGE WHILE HE WAS ASLEEP UNDER ANAESTHESIA AND WAS UNABLE TO COMMUNICATE.
- 28) DEFENDANTS CHANG AND RGH PERFORMED A MAJOR LIFE ALTERING OPERATION ON PLAINTIFF WITHOUT HIS KNOWLEDGE, AUTHORIZATION OR CONSENT AND DID SO IN A DISCREET, INDIRECT AND SNEAKY FASHION.
- 29) DEFENDANTS CHANG AND RGH FAILED TO FULLY INFORM PLAINTIFF OF THE RISKS AND PERILS OF THE OPERATION, AND SUCH LACK OF INFORMED CONSENT WAS A PROXIMATE CAUSE OF PLAINTIFF'S INJURIES FOR WHICH RECOVERY IS SOUGHT.
- 30) ANY CONSENT OBTAINED BY THE DEFENDANTS FROM PLAINTIFF WAS INVALID BECAUSE DEFENDANTS WRONGFULLY WITHHELD FROM

PLAINTIFF THE NATURE OF THE RISKS AND PERILS ATTENDANT UPON SUCH OPERATION AND ANY CONSENT OBTAINED, WRITTEN OR ORAL, WAS NOT A VALID AND INFORMED CONSENT.

- 31) BY REASON OF THE FOREGOING, PLAINTIFF HAS SUFFERED GREAT PAIN AND SERIOUS PERMANENT INJURIES, HAS BEEN COMPELLED TO SECURE MEDICAL AID IN AN EFFORT TO CURE OR MINIMIZE HIS INJURIES HAS BEEN AND WILL CONTINUE TO BE UNABLE TO FOLLOW HIS USUAL OCCUPATION AND WILL REQUIRE FOR AN INDEFINITE PERIOD OF TIME FURTHER MEDICAL AID AND ASSISTANCE.

### THIRD CAUSE OF ACTION - MEDICAL MALPRACTICE

- 32) PLAINTIFF REPEATS PARAGRAPHS 1-31.
- 33) UPON INFORMATION AND BELIEF, THE VIOLATIONS OF DEFENDANTS CHANG AND RGH, THE INJURIES AND DAMAGE TO PLAINTIFF FURTHER CONSISTED OF AMONG OTHER THINGS, THAT THE DEFENDANTS BY THEMSELVES AND BY THEIR AGENTS, SERVANTS AND EMPLOYEES, ON

THE BUSINESS OF THE DEFENDANTS AND IN THE SCOPE OF THEIR AUTHORITY, IN THE SERVICES RENDERED TO THE PLAINTIFF PRE-OPERATIVELY, OPERATIVELY, POST-OPERATIVELY AND IN THE AFTERCARE DID NOT POSSESS THE REASONABLE DEGREE OF LEARNING, SKILL AND COMPETENCE THAT IS ORDINARILY POSSESSED IN THE RENDERING OF SUCH SERVICES BY PHYSICIANS, HOSPITALS AND PERSONNEL PRACTICING THEIR BUSINESS OR PROFESSION IN THE COMMUNITY; NOR THE DEGREE OF SPECIAL KNOWLEDGE, SKILL AND EXPERIENCE NECESSARY IN THE EXERCISE OF THEIR LEARNING, SKILL AND COMPETENCE AND THE APPLICATION THEREOF IN THE SERVICES TO THE PLAINTIFF FOR WHICH THEY WERE EMPLOYED; DID NOT USE THEIR BEST JUDGEMENT IN EXERCISING THEIR SKILL AND APPLYING THEIR KNOWLEDGE; DID NOT FOLLOW THE ACCEPTED PRACTICE AND PROCEDURE IN THE COMMUNITY AND FOLLOWED UNACCEPTABLE PRACTICE AND PROCEDURE; WITHHELD FROM AND GAVE WRONG, ERRONEOUS AND/OR INADEQUATE INFORMATION AND DIRECTIONS TO PLAINTIFF AND THE PERSONS TREATING AND CURING PLAINTIFF; RENDERED SERVICES TO PLAINTIFF IN SUCH A NEGLIGENT AND IMPROPER MANNER

AS TO CAUSE HIM INJURY.

- 34) BY REASONS OF THE FOREGOING PLAINTIFF WAS SUBSTANTIALLY DAMAGED.

FOURTH CAUSE OF ACTION - BREACH OF CONTRACT

- 35) PLAINTIFF REPEATS PARAGRAPHS 1 THROUGH 34.

- 36) ON OR ABOUT APRIL 30<sup>TH</sup>, 2017 PLAINTIFF EMPLOYED THE SERVICES OF THE DEFENDANTS TO UNDERGO AN ENDOSCOPY (E.G.I.D.) ON PLAINTIFF IN AN ATTEMPT TO REMOVE THE FOREIGN BODIES FROM PLAINTIFF'S G.I. TRACT, WHICH WAS UNSUCCESSFUL AS THE FOREIGN BODIES WERE TOO FAR PROGRESSED IN PLAINTIFF'S INTESTINE.

- 37) THE DEFENDANTS AND DR. VINCENT CHANG, MD. IN BREACH OF THEIR CONTRACT WITH PLAINTIFF, IN VIOLATION OF THEIR DUTIES OF EMPLOYMENT, AND IN AN UNPROFESSIONAL AND UNDER-HANDED MANNER, TOOK UPON

THEMSELVES TO PERFORM A RADICAL, UNNECESSARY AND RADICAL OPERATION ON PLAINTIFF WHICH HE DID NOT CONSENT TO.

38) CONSEQUENTLY, PLAINTIFF HAS SUFFERED INJURIES.

FIFTH CAUSE OF ACTION - NEGLIGENT AND INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

39) PLAINTIFF REPEATS PARAGRAPHS 1 THROUGH 38.

40) DEFENDANTS CHANG AND RGH ACTED WITH THE INTENT TO CAUSE, OR WITH THE KNOWLEDGE THAT IT WOULD CAUSE SEVERE MENTAL DISTRESS TO PLAINTIFF.

41) THE FOREGOING ACTIONS OF DEFENDANTS CHANG AND RGH WERE WILLFUL, MAUCIOUS & WANTON AND WERE INTENDED TO CAUSE PLAINTIFFS MENTAL AND EMOTIONAL ILLNESS, ANXIETY, DEPRESSION, EMBARRASSMENT AND SHOCK.

42) AS A RESULT OF THE FOREGOING PLAINTIFF

WAS MADE TO SUFFER SEVERE EMOTIONAL AND MENTAL SUFFERING AND DISTRESS, SLEEPLESSNESS, ANXIETY, DEPRESSION AND SHAME.

### SIXTH CASE OF ACTION - THE CLAIMS AGAINST VCM

- 43) PLAINTIFF REPEATS PARAGRAPHS 1 THROUGH 42.
- 44) DEFENDANT VCM IS THE ADMINISTRATOR FOR DEFENDANT RGH AND HAS THEIR PRINCIPAL PLACE OF BUSINESS IN THE STATE OF PENNSYLVANIA.
- 45) DEFENDANT VCM AS ADMINISTRATOR OF DEFENDANT RGH (AND ULTIMATELY DR. VINCENT CHANG, M.D.) IS RESPONSIBLE FOR THE ADMINISTRATION OF RGH AS WELL AS RESPONSIBLE TO SCREEN, TRAIN SUPERVISE AND DISCIPLINE THEIR EMPLOYEES AGENTS AND SERVANTS
- 46) DEFENDANT VCM HAVE GROSSLY FAILED TO TRAIN & SUPERVISE THEIR EMPLOYEES

AGENTS AND SERVANTS AND AS A DIRECT AND PROXIMATE CAUSE OF THE ACTS, OMISSIONS, POLICIES AND CUSTOMS OF DEFENDANTS PLAINTIFF HAS BEEN INJURED.

- 47) DEFENDANTS VCM AND RGH ARE RESPONSIBLE UNDER THE THEORY OF RESPONDEAT SUPERIOR.

### SEVENTH CAUSE OF ACTION - FRAUD

- 48) PLAINTIFF REPEATS PARAGRAPHS 1 THROUGH 47,

- 49) DEFENDANTS CHANG AND RGH UNDERTOOK AN OPERATION ON PLAINTIFF TO WHICH HE DID NOT GIVE (AND WAS UNABLE TO DO SO) A KNOWING AND VOLUNTARY CONSENT.

- 50) DEFENDANTS DID NOT GIVE PLAINTIFF AN OPPORTUNITY TO MAKE A DECISION CONCERNING SUCH A LIFE-ALTERING



OPERATION, AND DID SO IN A SNEAKY, UNDERHANDS WAY.

- 51) DEFENDANTS ACTIONS WERE MALICIOUS, WITFUL AND KNOWING AND WERE IN COMPLETE DISREGARD TO PLAINTIFFS WISHES & WELL BEING.
- 52) AS A RESULT, PLAINTIFF HAS BEEN SUBSTANTIALLY HARMED.

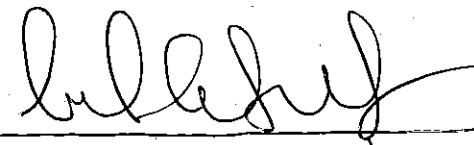
### PRAYER FOR RELIEF

- 53) PLAINTIFF SEEKS COMPENSATORY DAMAGES AGAINST DEFENDANTS IN THE AMOUNT OF FIVE MILLION DOLLARS \$ 5,000,000<sup>00</sup> USD, JOINTLY AND SEVERALLY.
- 54) PLAINTIFF SEEKS PUNITIVE DAMAGES AGAINST DEFENDANTS CHANG AND RGH IN THE AMOUNT OF THREE MILLION DOLLARS \$ 3,000,000<sup>00</sup> USD, EACH, INDIVIDUALLY.

WHEREFORE, PLAINTIFF PRAYS THAT THIS

COURT AWARDS TO PLAINTIFF THE RELIEF REQUESTED AS WELL AS GRANTING SUCH OTHER RELIEF AS LAW AND EQUITY ALLOWS INCLUDING ATTORNEYS FEES.


FEBRUARY 22, 2019  
EAST ELMHURST, N.Y.


X   
ANDREW W. VAIL  
1600 HAZEL ST.  
EAST ELMHURST NY

VERIFICATION  
STATE OF NEW YORK  
COUNTY OF BRONX

I, ANDREW W. VAIL BEING DULY SWORN DEPOSES AND SAYS: I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION AND HAVE READ AND KNOW THE CONTENTS OF THE FOREGOING VERIFIED COMPLAINT AND KNOW ITS CONTENTS TO BE TRUE EXCEPT AS TO MATTERS STATED TO BE ALLEGED UPON INFORMATION AND BELIEF AND AS TO THOSE MATTERS I BELIEVE TRUE.

SWORN TO BEFORE ME THIS  
23<sup>rd</sup> DAY OF FEBRUARY 2019

X   
ANDREW W. VAIL

X 

ERNEST O. OMOROGBE  
Notary Public, State of New York  
Registration #010M6152449  
Qualified In Suffolk County  
Commission Expires Sept. 11, 2022

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANDREW VAIL,  
Plaintiff

-AGAINST-

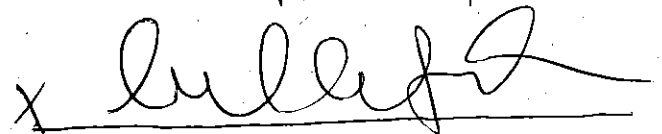
ROCHESTER GENERAL HOSPITAL,  
VCM,  
DR. VINCENT CHANG, M.D.,  
Defendants

CERTIFICATE OF  
MERIT PURSUANT  
TO CPLR 3012-a

CIV. ACTION NO.  
19-cv- \_\_\_\_\_

I ANDREW VAIL, APPEARING PRO-SE, HEREBY CERTIFY THAT ALTHOUGH CPLR 3012-a IS NOT REQUIRED FOR PRO SE PLAINTIFFS, I HAVE NON-THE-LESS CONSULTED WITH AT LEAST ONE PHYSICIAN LICENSED TO PRACTICE MEDICINE IN NEW YORK STATE AND WHO I BELIEVE TO BE KNOWLEDGEABLE IN THE RELEVANT ISSUES INVOLVED IN THE ACTION & HAVE CONCLUDED THAT THERE IS A REASONABLE BASIS FOR THE COMMENCEMENT OF THIS ACTION; AND I FURTHER INTEND TO RELY PARTLY ON THE DOCTRINE OF RES IPSA LOQUITUR.

FEBRUARY 22, 2019  
EAST ELMHURST NY

X   
ANDREW VAIL

JS 44 (Rev. 06/17)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

ANDREW VAIL, PRO SE

(b) County of Residence of First Listed Plaintiff BROWN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

1600 HAZEN ST  
EAST ELMHURST NY 11370

## DEFENDANTS

ROCHESTER GENERAL HOSP.  
ET ALCounty of Residence of First Listed Defendant MONROE  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

1425 PORTLAND AVE  
ROCHESTER NY 14621

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ PTF ☒ DEF 1 Incorporated or Principal Place of Business In This State ☐ 4 ☒
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☒
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332 &amp; 1367

Brief description of cause:

MED. MAL. / NEG. / BREACH OF CONTRACT, ETC. N.Y.S.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

\$5,000,000 COMP. JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

22 FEB 2019

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

~~for the~~  
~~for the~~ District of New York

ANDREW VAIL

Plaintiff(s)

v.

ROCHESTER GENERAL HOSPITAL  
DR. VINCENT CHANG M.D.  
VCM

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

VCM  
2591 WEXFORD BAYNE ROAD  
SUITE 401  
SEWICKLEY PA. 15143

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

ANDREW VAIL

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
SOUTHERN DISTRICT OF NEW YORK

ANDREW VAIL

Plaintiff(s)

v.

Civil Action No.

ROCHESTER GENERAL HOSPITAL  
DR. VINCENT CHANG M.D.,  
VCM,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

DR. VINCENT CHANG, M.D.  
ROCHESTER GENERAL HOSPITAL  
1299 PORTLAND AVENUE  
ROCHESTER NY 14621

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

ANDREW VAIL

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk



AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_\_



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
SOUTHERN DISTRICT OF NEW YORK

ANDREW VAIL

Plaintiff(s)

v.

Civil Action No.

ROCHESTER GENERAL HOSPITAL,  
DR. VINCENT CHANG, M.D.,  
VCM,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

ROCHESTER GENERAL HOSPITAL  
1425 PORTLAND AVENUE  
ROCHESTER, NY. 14621

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

ANDREW VAIL

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_\_

ANDREW VALE  
# 037156604



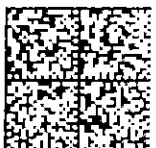
Pro Se Clerk (Intake)

U.S. District Court

Southern District of NY

500 Pearl St. Rm. 230

New York, NY 10007



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